

MONTANA LEGISLATIVE HISTORY

Chapter 603 1985

Bill H 579 S _____ Original bill & history ✓ c

H. Committee on Human Services & Aging

S. Committee on Judiciary

Hearing Date(s) 2/06 _____ c

Hearing Date(s) 3/12 _____ c

2/08 _____ c

3/21 _____ c

_____ c

_____ c

_____ c

_____ c

Date Out _____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

HOUSE FINAL STATUS

COMPENSATION FOR STATE LIBRARY COMMISSIONERS

1/31	INTRODUCED		
1/31	REFERRED TO STATE ADMINISTRATION		
2/01	FISCAL NOTE REQUESTED		
2/06	FISCAL NOTE RECEIVED		
2/13	HEARING		
2/13	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/16	2ND READING PASS	87	5
2/18	3RD READING PASS	87	12
	TRANSMITTED TO SENATE		
2/19	REFERRED TO STATE ADMINISTRATION		
3/19	HEARING		
3/25	TABLED IN COMMITTEE		

HB 577 INTRODUCED BY BRADLEY, HAFHEY, RAMIREZ, ET AL.
 DEFINE REGULATED TELECOMMUNICATION SERVICE; ALLOW
 TRANSITION TO COMPETITION
 BY REQUEST OF PUBLIC SERVICE COMMISSION

1/31	INTRODUCED		
1/31	REFERRED TO JUDICIARY		
2/15	HEARING		
2/16	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/16	STATEMENT OF INTENT ATTACHED		
2/19	2ND READING PASS	93	0
2/21	3RD READING PASS	100	0
	TRANSMITTED TO SENATE		
2/22	REFERRED TO BUSINESS & INDUSTRY		
3/14	HEARING		
3/21	COMM REPORT-BILL CONCURRED AS AMENDED		
3/23	2ND READING CONCURRED	49	0
3/26	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/08	2ND READING AMENDMENTS CONCURRED	94	1
4/08	ON MOTION RULES SUSPENDED		
	PLACED ON 3RD READING THIS DAY		
4/08	3RD READING AMENDMENTS CONCURRED	97	1
4/15	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/15	TRANSMITTED TO GOVERNOR		
4/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 546 EFFECTIVE DATE: 4/18/85		

HB 578 INTRODUCED BY KEYSER, RAMIREZ, ET AL.
 SECURITIES EXEMPTION FOR CERTAIN INSURANCE POLICIES
 OR CONTRACTS
 BY REQUEST OF SECURITIES DIVISION

1/31	INTRODUCED		
1/31	REFERRED TO BUSINESS & LABOR		
	DIED IN COMMITTEE		

HB 579 INTRODUCED BY WINSLOW
 CERTIFICATION FOR VOLUNTARY ADMISSION OF MENTAL
 PATIENT TO STATE HOSPITAL

HOUSE FINAL STATUS

BY REQUEST OF DEPARTMENT OF INSTITUTIONS

1/31	INTRODUCED		
1/31	REFERRED TO HUMAN SERVICES & AGING		
2/01	FISCAL NOTE REQUESTED		
2/06	HEARING		
2/06	FISCAL NOTE RECEIVED		
2/12	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/12	STATEMENT OF INTENT ATTACHED		
2/14	2ND READING PASS	62	29
2/15	3RD READING PASS	83	13
	TRANSMITTED TO SENATE		
2/16	REFERRED TO JUDICIARY		
3/12	HEARING		
3/21	COMM REPORT-BILL CONCURRED AS AMENDED		
3/23	2ND READING CONCURRED	49	0
3/26	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/08	2ND READING AMENDMENTS CONCURRED	95	0
4/08	ON MOTION RULES SUSPENDED		
	PLACED ON 3RD READING THIS DAY		
4/08	3RD READING AMENDMENTS CONCURRED	98	0
4/16	SIGNED BY SPEAKER		
4/16	SIGNED BY PRESIDENT		
4/18	TRANSMITTED TO GOVERNOR		
4/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 603 EFFECTIVE DATE: 10/01/85		

HB 580 INTRODUCED BY DARKO, SCHYE, ET AL.
AUTHORIZING COUNTY FUNDING OF SEARCH AND RESCUE
UNITS

1/31	INTRODUCED		
1/31	REFERRED TO LOCAL GOVERNMENT		
2/12	HEARING		
2/13	COMMITTEE REPORT-BILL DO PASS		
2/16	2ND READING PASS	69	27
2/18	3RD READING PASS	81	18
	TRANSMITTED TO SENATE		
2/19	REFERRED TO TAXATION		
3/19	HEARING		
3/21	COMMITTEE REPORT-BILL CONCURRED		
3/23	2ND READING CONCURRED	49	0
3/26	3RD READING CONCURRED	49	1
	RETURNED TO HOUSE		
3/28	SIGNED BY SPEAKER		
3/28	SIGNED BY PRESIDENT		
3/28	TRANSMITTED TO GOVERNOR		
4/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 280 EFFECTIVE DATE: 10/01/85		

HB 581 INTRODUCED BY WALLIN, ELLISON
AVICULTURAL PERMITS FOR TAKING MIGRATORY GAME BIRDS
FOR PROPAGATION

HOUSE BILL NO. 579

INTRODUCED BY WINSLOW

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

IN THE HOUSE

January 31, 1985	Introduced and referred to Committee on Human Services and Aging.
	Fiscal Note requested.
February 6, 1985	Fiscal Note returned.
February 12, 1985	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
	Bill printed and placed on members' desks.
February 14, 1985	Second reading, do pass.
	Considered correctly engrossed.
February 15, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

February 16, 1985	Introduced and referred to Committee on Judiciary.
March 21, 1985	Committee recommend bill be concurred in. Report adopted.
	Statement of Intent amended.
March 23, 1985	Second reading, concurred in.

March 26, 1985

Third reading, concurred in.
Ayes, 50; Noes, 0.

Returned to House with
amended Statement of Intent.

IN THE HOUSE

March 27, 1985

Received from Senate.

April 8, 1985

Second reading, amended
Statement of Intent concurred
in.

On motion, rules suspended and
bill placed on third reading
this day.

Third reading, amended
Statement of Intent concurred
in.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 579
2 INTRODUCED BY Wenolow
3 BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
6 53-21-111, MCA, TO REQUIRE THAT A PERSON REQUESTING
7 VOLUNTARY ADMISSION TO THE MONTANA STATE HOSPITAL RECEIVE
8 CERTIFICATION FROM A COMMUNITY MENTAL HEALTH CENTER THAT
9 ADEQUATE TREATMENT IS UNAVAILABLE IN THE COMMUNITY AND TO
10 REMOVE REFERENCE TO FINANCIAL ABILITY TO PAY FOR SERVICES IN
11 THE COMMUNITY."
12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14 Section 1. Section 53-21-111, MCA, is amended to read:
15 "53-21-111. Voluntary admission. (1) Nothing in this
16 part may be construed in any way as limiting the right of
17 any person to make voluntary application for admission at
18 any time to any mental health facility or professional
19 person. An application for admission to a mental health
20 facility shall be in writing on a form prescribed by the
21 facility and approved by the department. It is not valid
22 unless it is approved by a professional person and a copy is
23 given to the person voluntarily admitting himself. A
24 statement of the rights of the person voluntarily applying
25 for admission, as set out in this part, including the right

1 to release, shall be furnished to the patient within 12
2 hours.
3 (2) Any applicant who wishes to voluntarily apply for
4 admission to the state hospital shall first obtain
5 certification from a professional person that the applicant
6 is suffering from a mental disorder and certification from a
7 community mental health center that the facilities available
8 to the mental health region in which the applicant resides
9 are unable to provide adequate evaluation and treatment,
10 ~~except--such-certification-is-not-necessary-if-the-applicant~~
11 ~~obtains--certification--from--the--regional--mental--health~~
12 ~~director--of--his-mental-health-region-that-the-applicant-is~~
13 ~~financially-unable-to-receive-evaluation-and-treatment--from~~
14 ~~the-facilities-available-to-the-mental-health-region.~~
15 (3) An application for voluntary admission shall give
16 the facility the right to detain the applicant for no more
17 than 5 days, excluding weekends and holidays, past his
18 written request for release. A mental health facility may
19 adopt rules providing for detention of the applicant for
20 less than 5 days. The facility must notify all applicants of
21 such rules and post such rules as provided in 53-21-168.
22 (4) Any person voluntarily entering or remaining in
23 any mental health facility shall enjoy all the rights
24 secured to a person involuntarily committed to the
25 facility."

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 303-85

Form BD-15

In compliance with a written request received January 31 19 85, there is hereby submitted a Fiscal Note for H.B. 579 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

"An act amending section 53-21-111, MCA, to require that a person requesting voluntary admission to the Montana State Hospital receive certification from a community mental health center that adequate treatment is unavailable in the community and to remove reference to financial ability to pay for services in the community."

ASSUMPTIONS:

1. Use inappropriate admissions 1/10/84 through 12/31/84 = 42.
2. The variable cost per day at Montana State Hospital = \$6.43 per day based on FY 84 actual with 4% inflation.
3. The average length of stay is 60 days.

FISCAL IMPACT:

FY 86
(\$ 16,204)

FY 87
(\$ 16,204) General Fund Savings to the state each year of the Biennium.

Expenditures:

N/A

AFFECT OF LOCAL REVENUE ON EXPENDITURES:

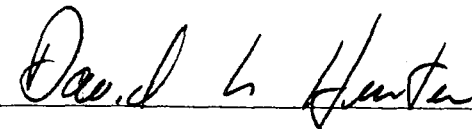
N/A

LONG RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS:

N/A



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 6, 1985

HB 579

STATUS SHEET49TH

LEGISLATIVE SESSION

COMMITTEE ON HUMAN SERVICES AND AGING

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB 571	2/01	2/22	2/22			2/22			
HB 579	1/31	2/06	2/06	2/06					
HB 595	1/31	2/13	2/13	2/13					
HB 605	2/1	2/8	2/8	2/8					
HB 646	2/2	2/13	2/13	2/13					
HB 720	2/8	2/15	2/15			2/15			
HB 729	2/8	2/18	2/18			2/18			
HB 730	2/8	2/15	2/15			2/15			
HB 731	2/8	2/18	2/18		2/18				
HB 733	2/8	2/20	2/20			2/20			
HB 737	2/9	2/18	2/18	2/18					
HB 743	2/9	2/20	2/20	2/20					
HB 748	2/9	2/18	2/18			2/18			
HB 757	2/9	3/11	TABLED						
HB 758	2/9	2/20	2/20			2/20			
HB 772	2/11	2/20	TABLED						

Use a separate sheet for Senate, House Bills, and Resolutions

MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 6, 1985

The meeting of the Human Services and Aging Committee was called to order by Chairperson Nancy Keenan on February 6, 1985 in Room 312-2 of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 579: Hearing commenced on House Bill No. 579. Representative Winslow, District #89, sponsor of the bill, stated that a person requesting voluntary admission to the Montana State Hospital receive certification from a community mental health center and that adequate treatment is unavailable in the community and to remove reference to financial ability to pay for services in the community was needed.

Proponent Curt Chisholm, deputy director of the Montana Department of Institutions testified that such a bill would eliminate much of the misunderstanding associated with admission to the Montana State Hospital. Baily Mullen also indicated his support of this bill.

There being no further proponents or opponents to this bill, Representative Winslow was then excused by the Chairperson.

Questions arose from Representative Wallin. Wallin asked Mr. Chisholm what the procedure was for admittance to a mental hospital.

There being no further questions, Chairperson Keenan closed the hearing.

HOUSE BILL NO. 560: Hearing commenced on House Bill No. 560. Representative Bardanouve of District #16, sponsor of the bill stated that an act removing the Swan River Youth Forest Camp from designation as a juvenile correctional facility was needed. Bardanouve also commented that the camp had originally been established for troubled youth and he was one of the initial sponsors of the legislation for its establishment.

Proponent Curt Chisholm, deputy director of the Montana Department of Institutions stated that the Swan River Camp had not housed juveniles for over two years. The establishment is presently being used to house young adult criminals.

There being no further proponents or opponents, the hearing

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/6/85

NAME	PRESENT	ABSENT	EXCUSED
NANCY KEENAN	X		
BUDD GOULD	X		
TONI BERGENE	X		
DOROTHY BRADLEY	X		
JAN BROWN	X		
BUD CAMPBELL	X		
BEN COHEN	X		
MARY ELLEN CONNELLY	X		
PAULA DARKO	X		
BOB GILBERT	X		
STELLA JEAN HANSEN	X		
MARIAN HANSON	X		
MARJORIE HART	X		
HARRIET HAYNE	X		
JOHN PHILLIPS	X		
BRUCE SIMON	X		
STEVE WALDRON	X		
NORM WALLIN	X		

MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 8, 1985

The meeting of the Human Services and Aging Committee was called to order by Chairperson Nancy Keenan on February 8, 1985 at 3:00 p.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 605: Hearing commenced on House Bill No. 605. Representative Connolly, District #8, sponsor of the bill said that an act to allow the department of institutions to establish standards for and approve chemical dependency educational courses provided by state-approved treatment programs and certify course instructors was needed. Representative Connolly also supplied a statement of intent.

Proponent Robert Anderson, representing the Montana Department of Institutions stated that the Department wanted the authority to establish the rules. Larry Majenus associated with the Montana Department of Motor Vehicles indicated that school programs would be beneficial. Mike Murray, representing the Chemical Dependency Program indicated his support. Albert Goke, representing the Montana Department of Justice, High Traffic Safety Division said his division supplied this concept.

There being no further proponents or opponents, Representative Connolly was then excused by Chairperson Keenan.

Representative Hansen then questioned as to whether the Indian reservations would be covered in the program and Robert Anderson indicated they would not.

There being no further discussion the hearing was closed.

HOUSE BILL NO. 301: Hearing commenced on House Bill No. 301. Representative Bradley, District #69, stated that an act providing regulation and licensing of preschool programs, requiring that preschool programs meet basic health and safety standards and other requirements was needed. Representative Bradley also indicated that periodic inspections of day-care facilities would be beneficial.

Proponent Jim Jenson of the Montana Day-care Association indicated that basic public health standards would be the main objective of the bill. Nancy Charackles, a day-care director said there were no figures of how many day-care centers were in operation and also said that the

in Montana. Norma Harris, Community Services Division, Department of SRS supplied Exhibit 4. Ms. Harris proposed several amendments which would clean up the inconsistencies; require courts to place children in Montana facilities and assist SRS to manage the foster care budget more effectively. John Shontz a Jefferson County Commissioner indicated that the courts should confer with SRS regarding placement. Loren Soft, administrator of the Yellowstone Boys and Girls Ranch indicated that the courts were using many out-of-state facilities when beds are available at the Yellowstone Ranch. Curt Chisholm, deputy director of the Department of Institutions indicated his support of this bill.

Opponent Jerry Johnson, a juvenile probation officer indicated that out-of-state facilities were only used when facilities in Montana were either not available or did not meet the needs of the juvenile offender. Craig Anderson also indicated his opposition. Mr. Anderson is also a juvenile probation officer.

There being no further proponents or opponents, Representative Waldron was excused by Chairperson Keenan. Representative Darko questioned the over spending. Representative Gould questioned the out-of-state problem in placement. Representative Gilbert questioned the eastern Montana facilities. Representative Simon asked what the usual facility for room and board on a monetary basis was. Representative Bergene asked what type of offense would require out-of-state treatment.

There being no further discussion on House Bill No. 489, the hearing was closed.

EXECUTIVE SESSION

ACTION ON HOUSE BILL NO. 605: Representative Darko made a motion that was seconded by Representative Phillips that House Bill No. 605 DO PASS. A unanimous vote to pass this bill was made.

ACTION ON HOUSE BILL NO. 579: Representative Darko made a motion which was seconded by Representative Hansen on House Bill No. 579 to DO PASS. A vote was taken with all in favor except Representative Gould voting no. A statement of intent was then voted upon with a unanimous vote to DO PASS.

ADJOURN: There being no further business before the Com-

STANDING COMMITTEE REPORT

February 8 19 85

Page 1 of 3

MR. Speaker

We, your committee on Human Services and Aging

having had under consideration House Bill No. 579

first reading copy (white)
color

Certification for voluntary admission of mental patient to state hospital

Respectfully report as follows: That House Bill No. 579

Amendments and Statement of Intent Attached

WITH AMENDMENTS AND STATEMENT OF INTENT

DO PASS

Human Services and Aging Committee
House Bill 579

AMENDED AS FOLLOWS:

- 1) Title, line 8.
Following: line 7.
Strike: "CERTIFICATION"
Insert: "CONFIRMATION"
- 2) Title, line 11.
Following: "COMMUNITY"
Insert: "; AND PROVIDING RULEMAKING AUTHORITY"
- 3) Page 2, lines 6 and 7.
Following: "disorder"
Strike: "and certification"
Insert: ". The professional person must then obtain confirmation"
- 4) Page 2, line 14.
Following: "region."
Insert: "The department shall adopt rules to establish a procedure whereby a professional person shall obtain the confirmation from a community mental health center as required in this section."
- 5) Page 3, lines 1 through 4.
Strike: section 2 in its entirety

Human Services and Aging Committee
House Bill 579

STATEMENT OF INTENT

A statement of intent is required for this bill because it contains a delegation of authority, as defined in section 5-4-403, MCA, providing the department of institutions statutory authorization to adopt rules to implement the provisions of the bill requiring confirmation that adequate treatment and evaluation are unavailable in the community.

The legislature contemplates that the department's rules will define the confirmation process in such a way as to provide adequate screening of voluntary admissions to the state hospital without creating an undue delay in meeting the needs of patients.

Specifically, the department should adopt rules that will address:

- (1) the qualifications of community mental health staff who may confirm voluntary admissions;
- (2) the procedure to be used in receiving confirmation from a community mental health center;
- (3) the information about the patient and his treatment needs that must be communicated to the community mental health center by the professional person seeking confirmation;
- (4) the method used by the mental health center to document the confirmation provided; and
- (5) any other reasonable consideration not inconsistent with the purpose of this bill.

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date February 8, 1985

NAME	PRESENT	ABSENT	EXCUSED
NANCY KEENAN	X		
BUDD GOULD	X		
TONI BERGENE	X		
DOROTHY BRADLEY	X		
JAN BROWN	X		
BUD CAMPBELL	X		
BEN COHEN	X		
MARY ELLEN CONNELLY	X		
PAULA DARKO	X		
BOB GILBERT	X		
STELLA JEAN HANSEN	X		
MARIAN HANSON	X		
MARJORIE HART	X		
HARRIET HAYNE	X		
JOHN PHILLIPS	X		
BRUCE SIMON	X		
STEVE WALDRON	X		
NORM WALLIN	X		

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 12, 1985

The forty-seventh meeting of the Senate Judiciary Committee was called to order at 10:12 a.m. on March 12, 1985, by Vice Chairman Kermit Daniels in Rooms 413-415 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HB 181: Representative Bob Ream, sponsor of HB 181, presented written testimony in support of the bill (Exhibit 1).

PROPOSERS: Frank Crowley, Assistant Attorney General with the State Department of Health, testified in support of the bill (see witness sheet attached as Exhibit 2). He stated this bill deals with the state's analog to the Resource Conservation and Recovery Act (RCRA). In Montana we passed the Montana Hazardous Waste Act to allow the state of Montana to take over the RCRA program in Montana. In the course of obtaining authorization from the Environmental Protection Agency (EPA), the EPA raised objections to section 1 which set forth civil and criminal penalties as alternatives. They said our law must be equivalent to theirs. Neither the EPA nor Montana has ever collected both, but this will now be an option. We are doing this to conform our law to the federal law. George Ochenski, representing the Montana Environmental Information Center, testified they support the bill for the same reasons as those stated by Mr. Crowley.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senator Shaw stated we have heard a lot this session about being blackmailed by the federal government. He asked Mr. Crowley if he felt this were another instance of such blackmail. Mr. Crowley did not think so. Senator Shaw then asked if he had a list of hazardous wastes from the federal government. Mr. Crowley stated he would get him one.

CLOSING STATEMENT: Representative Ream stated he thinks it will help the state to conform with the EPA.

Hearing on HB 181 was closed. Vice Chairman Daniels turned the gavel over to Chairman Mazurek.

intended. He intended the retail value of the goods plus a penalty. Senator Towe stated this amount is in addition to actual damages. You intended he receive the full value of the item but no additional damages but an additional penalty. Senator Towe went on to ask how you determine if it were \$25 or \$200 or in between. Representative Moore responded that would be up to the judge. Senator Towe asked if there would be criteria to determine that. Representative Moore replied no. Senator Mazurek asked if there were any discussion about holding the parents responsible. Representative Moore replied people thought it was a good form of parental control. It has worked well in Washington.

CLOSING STATEMENT: None.

Hearing on HB 323 was closed.

CONSIDERATION OF HB 579: Curt Chisholm, Deputy Director of the Department of Institutions, introduced the bill on behalf of Representative Cal Winslow, chief sponsor of the bill. Mr. Chisholm stated this bill was introduced at the request of the Department of Institutions to clarify and solve some problems. Warm Springs gets 400 voluntary admissions annually. What they will be doing is contacting the mental health center to determine if there is no other facility available. To his recollection, the section that is being eliminated has never been used. The primary motivating force is to have a professional person coordinate the activities to determine whether or not there are adequate facilities to deal with the person.

PROPOSERS: Dick Hruska, Director, Regional Mental Health Center in Great Falls, stated he was present at the request of Harold Gehrke. He stated the state council in its meeting in Helena supported the bill. David Briggs, Executive Director, Region IV Mental Health Center, stated the concept of screening admissions is a concept he has supported over the years. The two mental health centers that would be most affected are IV (Butte-Anaconda) and V (Missoula). There are approximately 400 voluntary admissions to Warm Springs each year. One-half come from Region IV. Of that 200 voluntary admissions, they are admitted by people who are not staff members of his mental health center. His mental health center has never had contact with them, and this would make them do so. The screenings will be done properly, professionally, and ethically. It is time they do not have to spare. There is no money tied to this bill. To request additional funds for this screening would not be appropriate. Region IV in particular is operating with waiting lists from 2-6 weeks. Most of the people they are seeing already are people that are trying to keep out of the state hospital. Having to go through the mental health centers will be extremely abrasive. They are concerned about confidentiality. Kelly Morrison, Director, Mental Disabilities Board of Visitors, supported the bill in its present form.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senator Towe asked how they saw confirmations different from certifications. Mr. Chisholm replied it connotes better an approval process instead of a certification process. They haven't made any final decision as to exactly the process that will be used. He suggested simply a phone call without disclosure of the identity and a treatment proposal to determine if there is treatment that can be used. They do not intend it to become a papermill with respect to voluntary admissions. Senator Towe stated his concern is by changing from certification to confirmation, you take away the right of the mental health center to make the judgment. He asked if that were what they intended. Mr. Chisholm replied no. Confirmation was just their preference. In the first instance, they found out in attempting to do what they want to do, they put the burden on the applicant. Certification simply seems to imply a more formal process of deciding these matters. All they are attempting to do is channel some of these people to the mental health centers. Senator Towe questioned whether the decision should be channeled to the mental health center or the other people. Mr. Chisholm replied the mental health center.

CLOSING STATEMENT: Representative Winslow stated the purpose of this bill is to restrict inappropriate admissions to the Montana State Hospital. The mental health center usually has better information available as to what facilities might be available in their community. The intent of this bill is before making a voluntary admission to Warm Springs, there will be a check to see if there are local facilities available to take care of this person.

Hearing on HB 579 was closed.

ACTION ON HB 181: Senator Towe moved HB 181 be recommended BE CONCURRED IN. Senator Shaw commented we have a lot of bills coming in the natural resources program, and it was suggested in the Natural Resources Committee that used oil will be considered as a hazardous waste. Are we panicking with this hazardous waste? He commented \$200 for used oil is more than you pay for new oil. Senator Towe stated the testimony was that the federal government wanted us to strike this language so we could go with the civil and criminal penalties at the same time. They talked the federal government out of it, but they still thought it was a good idea. The motion carried with Senator Shaw voting in opposition.

ACTION ON HB 352: Senator Shaw moved HB 352 be recommended BE CONCURRED IN. The motion carried unanimously.

ROLL CALL

SENATE JUDICIARY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 03/28/85

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 21, 1985

The fifty-fourth meeting of the Senate Judiciary Committee was called to order at 10:07 a.m. on March 21, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HB 609: Representative Jack Ramirez, sponsor of HB 609, testified this bill does not require a whole lot of concern. The National Commission on Uniform Laws recommended this legislation regarding durable powers of attorneys. We have the law on the books already. It is a very important law. This will save the expense of people who have relatives who become incapacitated. With a durable power of attorney, they are able to deal without the tremendous expense of a conservatorship.

PROPOSERS: Doug Olson, of the State of Montana Seniors' Office, presented written testimony in support of the bill (Exhibit 1).

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: None.

CLOSING STATEMENT: Representative Ramirez stated he had some written material from the Commission of Uniform Laws if anyone wanted to see it.

Hearing on HB 609 was closed.

ACTION ON HB 609: Senator Pinsoneault moved HB 609 be recommended BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF HB 541: Representative Paula Darko, sponsor of HB 541, testified this bill was submitted at the request of several district court judges (see correspondence regarding bill request, Exhibit 2). What this bill says is any person who multiplies legal proceedings is responsible for the payment of costs. There were questions in the House committee that the court would invoke this reprimand. There is some federal case law cited in the material provided to the committee.

PROPOSERS: None.

opposition. Senator Towe moved HB 310 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 781: Senator Daniels moved HB 781 be recommended BE NOT CONCURRED IN. He reasoning was these are misdemeanors, and you can't carry these things on forever. They are not felonies. If the prosecution and the judge don't get along, that is tough. Senator Pinsoneault stated not all of our justices of the peace have legal training, and the state should have a right to appeal from the decision, and he doesn't have that much problem. The motion failed (see roll call vote attached as Exhibit 6). Senator Pinsoneault moved HB 781 be recommended BE CONCURRED IN. The motion carried (see roll call vote attached as Exhibit 7).

ACTION ON HB 476: Senator Blaylock stated the argument was to get these out of the district court because the judge is already too busy and district judges are too light on third offense DUIs. Senator Daniels moved HB 476 be recommended BE CONCURRED IN. The motion carried with Senator Crippen moving in opposition.

ACTION ON HB 341: A proposed amendment was distributed to the committee (Exhibit 8). Senator Towe moved adoption of the amendment. Mr. Petesch explained this would require a fraudulent intent to defeat the lien or to defraud the payee of the check. Senator Towe stated his concern was when there is no good faith dispute, it does not cover all of the amendments, the the amendment covers it. The motion carried unanimously. Senator Daniels moved HB 341 be recommended BE NOT CONCURRED IN AS AMENDED. He thought you were just throwing a lot of things on a county attorney. He has enough to do without all of the commercial transactions. Senator Mazurek stated the idea is to take it off the county attorney and make it a civil offense. Senator Blaylock moved as a substitute motion that HB 341 be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senators Daniels and Shaw voting in opposition.

ACTION ON HB 579: Senator Towe stated there was discussion about what confirmation means on page 2. Senator Mazurek responded they were trying to eliminate the necessity of a confirmation in every instance. Senator Towe stated he was anxious we have something to show that if they do it by telephone, they have something in the file to go back to. Senator Mazurek commented that would be appropriate for rules. Senator Daniels moved HB 579 be amended as follows:

Statement of Intent.
Page 1, line 18.
Following: line 17

Insert: "(1) adoption of a procedure requiring a written statement signed by an authorized person from the community mental health center either before or at the time the confirmation is obtained;"

Renumber: subsequent subsections

The motion carried unanimously. Senator Towe moved HB 579 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 340: Proposed amendments were distributed to the committee (Exhibit 9). Senator Mazurek stated these amendments would allow the landlord to collect storage costs or damage to the premises and to deduct those before the tenant takes the property. Senator Pinsoneault moved adoption of the amendments. Senator Towe asked how we solved the problem about abandoned property. How can it be abandoned when he really wants it, but he can't get it because the storage costs are too high? Mr. Petesch responded he has to respond within 15 days, but if he doesn't, you have to presume he has abandoned. Senator Pinsoneault pointed out that is all the leverage he has. Senator Towe stated it is covered, because he only has to respond that he intends to remove it, but he does not have to remove it and pay the storage costs. The motion carried unanimously. Senator Pinsoneault moved HB 340 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 507: Senator Shaw moved HB 507 be recommended BE CONCURRED IN. Senator Towe stated he has some real problem understanding how anyone can seriously inject the idea it is a plain and simple discrimination. They can defend the theory a woman is different in physical makeup and live longer, but someday someone will come up with another argument proving it is lifestyle and not genetics. The argument we heard here is not a lot different than what we heard years ago about rape. If we can carve out a group of people that will live longer and get them cheaper insurance rates, then we ought to carve out Indians and blacks and Quakers. Senator Crippen stated we can be here all morning and all afternoon. Senator Towe sees this as the basis of an intentional discrimination, and it is not. If you follow your logic to its conclusion, then why discriminate between a person age 52 and age 53 in insurance. Why shouldn't they have the same rates? Senator Pinsoneault stated we put this law in place, and we come in two years later and turn it around. Was it voted in unanimously last time? Senator Towe stated it was close then. Senator Crippen pointed out it was very, very close. Senator Towe stated the reason we don't discriminate on the basis of age is we don't have a public policy against that. The problem with the whole concept of setting up rate mortality tables is it is an average, but you might be the exception, but because of this law, you have no choice. He doesn't like to pay more insurance premiums than someone

SENATE

STANDING COMMITTEE REPORT

March 21 19 85

MR. PRESIDENT

JUDICIARY

We, your committee on

HOUSE BILL

No. 579

having had under consideration

third reading copy (blue color)

(Senator Towe)

CERTIFICATION FOR VOLUNTARY ADMISSION OF MENTAL PATIENT TO STATE HOSPITAL

HOUSE BILL

No. 579

Respectfully report as follows: That

be amended as follows:

Statement of Intent.

Page 1, line 18.

Following: line 17.

Insert: "(1) adoption of a procedure requiring a written statement signed by an authorized person from the community mental health center either before or at the time the confirmation is obtained;"

Renumber: subsequent subsections

AND AS AMENDED

BE CONCURRED IN

XXXXXX

XXXXXXXXXX

Senator Joe Mazurek

Chairman.

1 STATEMENT OF INTENT

2 HOUSE BILL 579

3 House Human Services and Aging Committee

4
5 A statement of intent is required for this bill because
6 it contains a delegation of authority, as defined in
7 5-4-403, providing the department of institutions statutory
8 authorization to adopt rules to implement the provisions of
9 the bill requiring confirmation that adequate treatment and
10 evaluation are unavailable in the community.

11 The legislature contemplates that the department's
12 rules will define the confirmation process in such a way as
13 to provide adequate screening of voluntary admissions to the
14 state hospital without creating an undue delay in meeting
15 the needs of patients.

16 Specifically, the department should adopt rules that
17 will address:

18 (1) ADOPTION OF A PROCEDURE REQUIRING A WRITTEN
19 STATEMENT SIGNED BY AN AUTHORIZED PERSON FROM THE COMMUNITY
20 MENTAL HEALTH CENTER EITHER BEFORE OR AT THE TIME THE
21 CONFIRMATION IS OBTAINED;

22 ††(2) the qualifications of community mental health
23 staff who may confirm voluntary admissions;

24 †2†(3) the procedure to be used in receiving
25 confirmation from a community mental health center;

1 †3†(4) the information about the patient and his
2 treatment needs that must be communicated to the community
3 mental health center by the professional person seeking
4 confirmation;

5 †4†(5) the method used by the mental health center to
6 document the confirmation provided; and

7 †5†(6) any other reasonable consideration not
8 inconsistent with the purpose of this bill.

HOUSE BILL NO. 579

INTRODUCED BY WINSLOW

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 53-21-111, MCA, TO REQUIRE THAT A PERSON REQUESTING VOLUNTARY ADMISSION TO THE MONTANA STATE HOSPITAL RECEIVE CERTIFICATION CONFIRMATION FROM A COMMUNITY MENTAL HEALTH CENTER THAT ADEQUATE TREATMENT IS UNAVAILABLE IN THE COMMUNITY AND TO REMOVE REFERENCE TO FINANCIAL ABILITY TO PAY FOR SERVICES IN THE COMMUNITY; AND PROVIDING RULEMAKING AUTHORITY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-21-111, MCA, is amended to read:

"53-21-111. Voluntary admission. (1) Nothing in this part may be construed in any way as limiting the right of any person to make voluntary application for admission at any time to any mental health facility or professional person. An application for admission to a mental health facility shall be in writing on a form prescribed by the facility and approved by the department. It is not valid unless it is approved by a professional person and a copy is given to the person voluntarily admitting himself. A statement of the rights of the person voluntarily applying

for admission, as set out in this part, including the right to release, shall be furnished to the patient within 12 hours.

(2) Any applicant who wishes to voluntarily apply for admission to the state hospital shall first obtain certification from a professional person that the applicant is suffering from a mental disorder, and certification THE PROFESSIONAL PERSON MUST THEN OBTAIN CONFIRMATION from a community mental health center that the facilities available to the mental health region in which the applicant resides are unable to provide adequate evaluation and treatment, ~~except--such-certification-is-not-necessary-if-the-applicant obtains--certification--from--the--regional--mental--health director--of--his-mental-health-region-that-the-applicant-is financially-unable-to-receive-evaluation-and-treatment--from the--facilities--available-to-the-mental-health-region.~~ THE DEPARTMENT SHALL ADOPT RULES TO ESTABLISH A PROCEDURE WHEREBY A PROFESSIONAL PERSON SHALL OBTAIN THE CONFIRMATION FROM A COMMUNITY MENTAL HEALTH CENTER AS REQUIRED IN THIS SECTION.

(3) An application for voluntary admission shall give the facility the right to detain the applicant for no more than 5 days, excluding weekends and holidays, past his written request for release. A mental health facility may adopt rules providing for detention of the applicant for

1 less than 5 days. The facility must notify all applicants of
2 such rules and post such rules as provided in 53-21-168.

3 (4) Any person voluntarily entering or remaining in
4 any mental health facility shall enjoy all the rights
5 secured to a person involuntarily committed to the
6 facility."

7 NEW-SECTION.--Section-2.--Extension--of--authority.--Any
8 existing-authority-of-the-department-of-institutions-to-make
9 rules-on-the-subject--of--the--provisions--of--this--act--is
10 extended-to-the-provisions-of-this-act.

-End-